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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/714,204	11/17/2000	Arye Barkan	2225/1	5117

7590

04/20/2004

Dr Mark Friedman LTD  
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EXAMINER

LUU, LE HIEN

ART UNIT

PAPER NUMBER

2141

DATE MAILED: 04/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/714,204

Applicant(s)

BARKAN ET AL.

Examiner

Le H Luu

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 11-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

1. Claims 1-10 are presented for examination.
2. Applicant's election of claims 1-10 in Paper No. 4 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
3. Applicant is requested to formally cancel non-elected claims 11-17.
4. This application contains a computer program listing of more than three hundred (300) lines. In accordance with 37 CFR 1.96(c), a computer program listing contained on more than three hundred (300) lines, must be submitted as a computer program listing appendix on compact disc conforming to the standards set forth in 37 CFR 1.96(c)(2) and must be appropriately referenced in the specification (see 37 CFR 1.77(b)(4)). Accordingly, applicant is required to cancel the current computer program listing, file a computer program listing appendix on compact disc in compliance with 37 CFR 1.96(c), and insert an appropriate reference to the newly added computer program listing appendix on compact disc at the beginning of the specification.
5. Claims 3-10 are objected to because of the following informalities: applicant uses acronyms SLA and CSL in claim language that are not clearly defined. Appropriate correction is required.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless—

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-10 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by **Davis et al. (Davis)** patent no. **5,870,545**.

8. As to claim 1, Davis teaches the invention as claimed, including a system for automatically managing service level agreements comprising:

a database module for storing data related to the service level agreement (SLA) (col. 10 lines 27-36);

an engine module for processing said data from said database module (col. 11 lines 29-33); and

a management module for managing said database module and said engine module (col. 8 line 59 - col. 9 line 12).

9. As to claim 2, Davis teaches security layer for securing data generated by said database module, said engine module and said management module (col. 9 lines 37-44).

10. As to claim 3, Davis teaches generating SLA reports based on said engine module (col. 8 lines 11-29).

11. As to claim 4, Davis teaches a SLA manager for creating and updating service level agreement; and an infrastructure manager for finding resource to be monitored for each customer with said service level agreement (col. 10 lines 4-47).

12. As to claim 5, Davis teaches a SLA engine for generating maps of promised service level for a customer; a calculated service level (CLS) engine for processing measurements and events of said service level, as reported by monitoring/operational tools; and an optimization engine for supporting what if scenarios for optimizing the allocation of resources for said customer by an application service provider (col. 4 lines 29-51; col. 7 lines 55-63; col. 8 lines 11-19; col. 11 lines 1-32).

13. As to claim 6, Davis teaches a SLA database containing SLA definitions that target an amount of service level promised to a customer per certain service domain, application and a certain time slot; and a CSL database that contains calculated measurements and events of said services level (col. 4 lines 29-51; col. 8 lines 11-19; col. 11 lines 22-32).

14. Claims 7-10 have similar limitations as claims 1-6; therefore, they are rejected under the same rationale.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Le H. Luu, whose telephone number is (703) 305-9650. The examiner can normally be reached Monday through Friday from 7:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia, can be reached at (703) 305-4003. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7239.

Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9600.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

or faxed to:

(703) 872-9306, (for formal communications; please mark "EXPEDITED PROCEDURE").

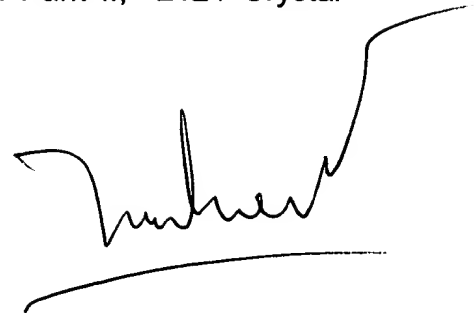
Or:

(703) 872-9306 (for informal or draft communications, please label "PROPOSED" or "DRAFT").

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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

A handwritten signature in black ink, appearing to read 'Le Hien Luu', with a long horizontal line extending from the end of the signature.

LE HIEN LUU  
PRIMARY EXAMINER

April 14, 2004